

accepting this speculative use of Mori as a given, however, the reality is that Mori still falls short of the claim language which states:

.... said bidder can specify that a set of ranked bids submitted by such bidder for a set of items should be treated as mutually exclusive (emphasis added).

This limitation was added in the last amendment, but the Examiner has apparently not considered it in the final Office Action, because it should be abundantly apparent that there is no way Mori treats even the speculatively argued “multiple” bids across multiple auctions as “mutually exclusive.” In other words, even if a bidder engaged in the type of behavior speculated by the Examiner, he/she would be left in the position of having submitted a set of bids across a set of auctions which might all be satisfied. Applicants submit that there is no reasonable interpretation of the term “mutually exclusive” which is disclosed by Mori, since in all cases a bidder would conceivably be exposed to the problem of winning all their bids, even in the case where he/she desires only a single item, or only a subset of the actual bids.

This is very easy to see from a simple example. Assume, for simplicity’s sake, that the system is being used to make dinner reservations. Assume that there are three different restaurant reservations at 7 pm on Saturday night that are available for bid (Res A, Res B and Res C). Further assume that a bidder wishes to acquire one of these reservations, but no more than one (since more than one could not be personally used by the bidder due to the mutually exclusive nature of dinner reservations).

Using the system of Mori in the manner described by the Examiner, a bidder would enter three rules lists, one each for Res A, Res B and Res C, respectively. In Mori, these three rules lists are treated totally independent of each other – there is no relationship between the three rules lists, only among the rules within any given single rules list. As a result, there is no process in place to prevent the bidder from winning more than one of the items.

In this example, the function of box 314 in Figure 4 of Mori is moot. As clearly described in Mori, Box 314 only has bearing upon the outcome of the bid if the item being auctioned consists of multiple units (for example, Mori’s bunches of identical flowers). Box 314 in Figure 4 has no relationship to the other rules lists entered in this example for the other items.

Buttons 324 and 325 in Figure 4 of Mori also have little value in this example. These buttons allow the bidder to prioritize the rules in their rules list for each individual item but do not have any bearing on the other rules lists. In this example, because Res A, Res B and Res C are each individual items, there is little reason to prioritize a set of rules for any one of the items: since the winning bid is determined only by the bid price, only the bid rule with the highest maximum price could possibly win any respective individual item, given the system presented in Mori. The function of these buttons do not in any way, however, prevent the bidder from winning one, two or all three of the items available for bid.

Accordingly, the function of 324 and 325 in Figure 4 of Mori are entirely unrelated to the rankings set out in the present application. 324 and 325 order a set of bids for an individual item but do not provide any means whatsoever for a bidder to prioritize bids across multiple, independent items or auctions .

When the auctions for Res A, Res B and Res C are held, it is thus possible the bidder will have the winning bid for ALL THREE reservations and be awarded all three mutually exclusive items. Thus, there is no mechanism in Mori to prevent the bidder from successfully winning many mutually exclusive items. This situation is only magnified in situations where the bidder wishes to enter bids on more mutually exclusive items (ten, for example) and thus increases the risk that they will win more than one of the auctions.

The invention of claim 1 prevents this possibility. The bidder can be given an option to have his/her bids considered so that only one of such bids is satisfied. It is plain to see that this type of functionality could be used in conjunction with or as a supplement to normal bidding systems such as shown in Mori and other prior art.

None of the other prior art references remedy this deficiency in Mori, and the Examiner apparently does not contend so either. For these reasons, Applicant submits that claim 1 clearly defines patentable subject matter, and thus the rejections should be withdrawn.

For brevity reasons, Applicant is not repeating the arguments here already set out in the prior amendment for claims 6 – 102, and merely incorporates by reference the same herein. In addition to the arguments related to claim 1 above, the only thing that bears noting here is the fact that Examiner has not particularly pointed out in the Final Office Action where in the references one skilled in the art would find the limitations noted earlier in such claims, including:

- Claim 6 (permitting bidders to see both a current highest unconditional bid price specified by a bidder and information relating to any conditional bids specified by other bidders for an item)
- Claim 27 (permitting a bidder to bid on two separate items auctioned in two separate periods and so that a second bid is only considered if the first bid from the bidder is not a winning bid.)
- Claim 51 (setting up an auction so that a set of active bids for the item includes only those bids in which a potential purchaser designated such bid for the item with a highest bid ranking among all bids submitted by the potential purchaser)
- Claim 57 ("active" bids for an item are only solicited from "highest ranked bids" made by bidders for the item)

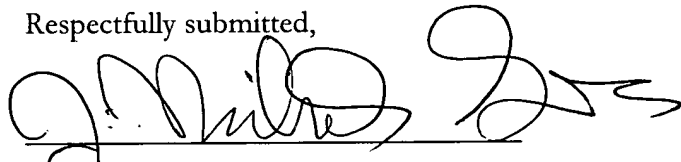
Thus, the Applicant submits that the Examiner has not properly discharged his burden to support a continuing rejection of such claims.

CONCLUSION

The Applicant requests reconsideration of the rejections and allowance of the pending claims, as the Examiner appears to have mistakenly attributed certain structures and characteristics to Mori which are clearly not there. Moreover, a number of other limitations in the other claims are plainly not disclosed or suggested in the references.

Should the Examiner wish to discuss the present case in person, he is invited to please contact the undersigned at any convenient opportunity.

Respectfully submitted,



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I hereby certify that the foregoing is being deposited with the U.S. Postal Service, postage prepaid, to Mail Stop AF, Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450, this 21st day of July 2003.